

INFORMATION PAPER: Gifts from Outside Sources

**DAJA-SC
3 February 2003**

SUBJECT: Receipt of Gifts from Outside Sources

1. PURPOSE:. To summarize the rules concerning gifts from outside sources.

2. FACTS.

a. Generally, DoD employees may not accept gifts from a prohibited source or a gift that is offered because of the recipients official position. There are four steps to determining whether a gift may be accepted. (5 C.F.R. 2635.204)

(1) First, is it a "gift?" Items with little intrinsic value intended solely for presentation, benefits available to all military personnel in a particular geographic area, and coffee and donuts offered during a meeting are examples of "non-gifts." Gifts of cash or cash equivalent may not be accepted, regardless of amount, unless exception applies.

(2) Second, if it is a "gift," is it a gift from prohibited source?

(a) A prohibited source is someone who does business with the employee's agency, seeks to do business with the agency, conducts activities regulated by the agency; or is an organization, a majority of whose members are prohibited sources.

(b) A gift given because of the recipient's official position is treated as a prohibited source gift.

(3) Third, if it is a "prohibited source gift," does an exception apply? The exceptions are:

(a) A gift with a market value of \$20 or less, not to exceed \$50, in a calendar year from any one source.

(b) A gift to a group of Federal employees or class of individuals, but not based on official position or rank.

(c) Awards for meritorious public service or achievement if pursuant to an established program of recognition (might require an Ethics Counselor written determination).

(d) Social invitations from other than prohibited sources, but based on the employee's official position, if no fee is charged to anyone attending.

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- (e) Gifts based on a personal relationship (must be clearly motivated by family or other personal relationship).
 - (f) Gifts based on outside business or employment relationships (for example, gifts that arise from the spouse's business activities).
 - (g) Free attendance at widely attended gatherings, typically conferences or seminars, when the supervisor determines it to be in the agency interest for the employee to attend.
 - (h) Gifts permitted by other statutes, such as gifts from foreign governments accepted under the authority of 5 U.S.C. 7342 (retail value in United States may not exceed \$285).
- (4) Fourth, if an exception applies, should it be used?
- (a) Exceptions do not authorize bribes. If a gift buys influence, it is a bribe.
 - (b) A gift may never be solicited or coerced.
 - (c) If the frequency of gifts would lead a reasonable person to believe that the employee is using public office for private gain, they may not be accepted.
- b. Disposal of improper gifts. An Ethics Counselor may authorize any one of the following dispositions. (5 C.F.R. 2635.205).
- (1) The gift may be converted to a gift to the agency, or to an appropriate morale, welfare and recreation activity.
 - (2) If perishable, the gift may be consumed in the office where received.
 - (3) The recipient may keep the gift, and pay the donor its cost.
 - (4) The gift may be returned to the donor.
- c. If the value of gifts from a single source is \$250 or more during a calendar year, they must be reported on public (SF 278) or confidential (SF 450) financial disclosure report.